

110TH CONGRESS
1ST SESSION

H. R. 850

To amend the Internal Revenue Code of 1986 to establish a procedure for determining whether individuals who are not authorized to be employed in the United States are so employed.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2007

Mr. GALLEGLY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and Labor and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to establish a procedure for determining whether individuals who are not authorized to be employed in the United States are so employed.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “IRS Illegal Immigrant
5 Information Act of 2007”.

1 **SEC. 2. PROCEDURE FOR DETERMINING WHETHER INDIVIDUALS WHO ARE NOT AUTHORIZED TO BE**
2 **EMPLOYED IN THE UNITED STATES ARE SO**
3 **EMPLOYED.**

4
5 (a) IN GENERAL.—Subsection (i) of section 6103 of
6 the Internal Revenue Code of 1986 (relating to confiden-
7 tiality and disclosure of returns and return information)
8 is amended by adding at the end the following new para-
9 graph:

10 “(9) DISCLOSURE OF EMPLOYMENT INFORMA-
11 TION TO SECRETARY OF HOMELAND SECURITY.—

12 “(A) IN GENERAL.—During December of
13 each calendar year, the Secretary of Homeland
14 Security shall submit electronically a request to
15 the Secretary for the information described in
16 subparagraph (B)(ii) with respect to each indi-
17 vidual who had been authorized to be employed
18 in the United States during any prior calendar
19 year but who was not so authorized as of De-
20 cember 31 of the immediately preceding cal-
21 endar year. Such request shall specify—

22 “(i) the name and TIN of the indi-
23 vidual, and

24 “(ii) the taxable period or periods for
25 which the information is requested.

1 “(B) DISCLOSURE OF EMPLOYMENT IN-
2 FORMATION.—

3 “(i) IN GENERAL.—Not later than the
4 first March 5 following the receipt by the
5 Secretary of such request, the Secretary
6 shall electronically disclose return informa-
7 tion described in clause (ii) to officers and
8 employees of the Department of Homeland
9 Security who are personally and directly
10 engaged in the enforcement of the Immi-
11 gration and Nationality Act.

12 “(ii) INFORMATION TO BE DIS-
13 CLOSED.—The information described in
14 this clause with respect to any individual
15 is—

16 “(I) such individual’s mailing ad-
17 dress,

18 “(II) the total amount of wages
19 (as defined in section 3121(a)) paid to
20 such individual during the period or
21 periods specified in subparagraph
22 (A)(ii), and

23 “(III) the name, address, and
24 employer identification number of

1 each employer paying such wages dur-
2 ing such period or periods.

3 “(C) REFUNDS, ETC. WITHHELD.—No re-
4 fund of any tax imposed by this title shall be
5 made, and no credit under section 32 (relating
6 to earned income credit) shall be allowed, to
7 any individual for any taxable year during any
8 portion of which such individual is employed in
9 the United States without being authorized to
10 be so employed.

11 “(D) NOTICE TO EMPLOYER AND EM-
12 PLOYEE.—If the Secretary of Homeland Secu-
13 rity receives information under this paragraph
14 indicating that an individual was employed in
15 the United States after the expiration of the in-
16 dividual’s authority to be so employed, such
17 Secretary shall (within 7 business days after re-
18 ceiving such information) notify in writing such
19 individual and each person or entity who was
20 an employer of such individual after such expi-
21 ration that such individual is not authorized to
22 be employed in the United States and that the
23 individual’s employment with the employer
24 should be terminated not later than the 30th

1 day after the date of the notice. Such notice
2 shall also describe—

3 “(i) the employer’s obligations under
4 this paragraph,

5 “(ii) the employee’s right under this
6 paragraph to contest the determination
7 that the employee is not authorized to be
8 employed in the United States, and

9 “(iii) the procedure under this para-
10 graph for contesting such determination.

11 “(E) EMPLOYEE’S RIGHT TO CONTEST.—

12 “(i) NOTICE TO EMPLOYEE.—If any
13 employer receives such a notice from the
14 Secretary of Homeland Security with re-
15 spect to an employee, the employer shall,
16 within 3 business days after the date the
17 employer received such notice, provide a
18 copy of such notice to the employee.

19 “(ii) RIGHT TO CONTEST.—An em-
20 ployee may contest the accuracy of such
21 notice during the 30-day period beginning
22 on the date that the employer provided the
23 notice under clause (i) to the employee.

24 “(iii) CONTEST PROCEDURE.—If, dur-
25 ing such 30-day period, the employee pro-

1 vides the employer with information sub-
2 stantiating such employee's claimed au-
3 thorization to be employed in the United
4 States, the employer shall, in such form
5 and manner as the Secretary of Homeland
6 Security shall prescribe, provide to such
7 Secretary—

8 “(I) the employee's name, ad-
9 dress, and taxpayer identification
10 number,

11 “(II) the employer's name, ad-
12 dress, telephone number, and em-
13 ployer identification number, and

14 “(III) the information provided
15 by the employee to the employer sub-
16 stantiating such employee's authoriza-
17 tion to be employed in the United
18 States.

19 “(F) VERIFICATION FROM DEPARTMENT
20 OF HOMELAND SECURITY.—Within 7 business
21 days after receiving such information, the Sec-
22 retary of Homeland Security shall electronically
23 notify the Secretary, and shall notify the em-
24 ployer and employee in writing, as to whether

1 the employee is authorized to be employed in
2 the United States.

3 “(G) SUSPENSION OF OBLIGATION TO TER-
4 MINATE EMPLOYMENT UNTIL RESPONSE RE-
5 CEIVED.—

6 “(i) IN GENERAL.—Except as pro-
7 vided in clause (ii), if the employee meets
8 the requirement of subparagraph (E)(iii),
9 the employer’s obligation to terminate the
10 employment of such employee shall be sus-
11 pended until the employer receives the no-
12 tice described in subparagraph (F).

13 “(ii) TIMELY RESPONSE NOT RE-
14 CEIVED.—If the employer does not receive
15 such notice before the 30th day after the
16 close such 30-day period, the employer
17 shall so notify the Secretary of Homeland
18 Security.

19 “(H) REBUTTABLE PRESUMPTION OF VIO-
20 LATION OF THE IMMIGRATION AND NATION-
21 ALITY ACT.—

22 “(i) IN GENERAL.—A rebuttable pre-
23 sumption is created that the employer has
24 violated section 274A(a)(1)(A) of the Im-
25 migration and Nationality Act if—

1 “(I) the employer employs an in-
2 dividual with respect to whom a notice
3 is received under subparagraph (D)
4 after the 30 days described in such
5 subparagraph,

6 “(II) the employer fails to notify
7 the Secretary as required by subpara-
8 graph (G)(ii) and employs such indi-
9 vidual, or

10 “(III) the employer refers the in-
11 dividual for employment after receiv-
12 ing a notice under subparagraph (D)
13 with respect to such individual.

14 “(ii) EXCEPTIONS.—

15 “(I) SUSPENSION PERIOD.—
16 Clause (i)(I) shall not apply during
17 the suspension period described in
18 subparagraph (G)(i)

19 “(II) NOTICE FROM SECRETARY
20 OF HOMELAND SECURITY.—Clause (i)
21 shall cease to apply with respect to an
22 individual after the date that the em-
23 ployer is notified by the Secretary of
24 Homeland Security that such indi-

vidual is authorized to be employed in
the United States.

“(I) SPECIAL RULES.—

“(i) PROTECTION FROM LIABILITY.—

No employer shall be civilly or criminally
liable under any law for any action taken
in good faith reliance on information pro-
vided by the Secretary or the Secretary of
Homeland Security with respect to any in-
dividual’s eligibility to be employed in the
United States.

“(ii) TIMELY MAILING TREATED AS

TIMELY NOTICE.—Rules similar to the
rules of section 7502 shall apply for pur-
poses of this section.

“(iii) LAST KNOWN ADDRESS OF EM-

PLOYEE.—Any notice required to be pro-
vided to an employee under this section
shall be sufficient if mailed to the employee
at the last known address of the employee.

“(iv) EMPLOYMENT-BASED VISAS.—

For purposes of this section, the deter-
mination of whether an individual is au-
thorized to be employed in the United
States includes whether the individual has

1 an immigrant visa issued pursuant to the
2 numerical limitation under section 203(b)
3 of the Immigration and Nationality Act (8
4 U.S.C. 1153(b)) (relating to employment-
5 based visas).”.

6 (b) CONFORMING AMENDMENT.—Paragraph (4) of
7 section 6103(p) of such Code is amended by striking “(5)
8 or (7)” each place it appears and inserting “(5), (7), or
9 (9)”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to requests made in calendar years
12 beginning after the date of the enactment of this Act.

○